

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

ATTALA COUNTY, MISSISSIPPI,
BRANCH OF THE NAACP, et al

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:19-CV-167-DMB-JMV

DOUG EVANS, IN HIS OFFICIAL
CAPACITY

DEFENDANT

**DEFENDANT'S UNOPPOSED MOTION FOR ADDITIONAL TIME WITHIN WHICH
TO FILE REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS**

Defendant, Doug Evans, in his official capacity as the District Attorney of the Fifth Circuit Court District of Mississippi (“Defendant”), files this Unopposed Motion for Extension of Time Within Which to File a reply memorandum in support of motion to dismiss for lack of subject matter jurisdiction, or in the alternative, abstention [ECF # 8]. Defendant’s reply is presently due on February 10, 2020. Defendant seeks a brief extension up to and including February 14, 2020 for filing the reply. Plaintiffs do not oppose this motion. In support, Defendant states the following to the Court:

1. Plaintiffs filed their Class Action Complaint for Declaratory Judgment and Injunctive Relief on November 19, 2019 [ECF # 1]. Following service of process on December 3, 2019, Defendant filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction, or in the Alternative, Abstention and a supporting memorandum on December 23, 2019. [ECF # 8, 9].
2. On December 27, 2019, Plaintiffs filed an unopposed motion for extension of time within which to respond to the motion to dismiss seeking an additional twenty-one (21) days to respond. [ECF # 10].
3. On December 30, 2019, the Court entered an Order granting Plaintiffs’ extension making the response due by February 3, 2020. [ECF # 11].

4. On February 3, 2020, Plaintiffs filed their Brief in Opposition to the Motion to Dismiss. [ECF # 13].

5. The time period for Defendant's reply falls within several deadlines for undersigned counsel, including:

(a) On February 5, 2020, dispositive motion deadline in *Whitfield v. Rice*, Civil Action No. 3:17-CV-987-HSO-JCG, involving a Section 1983 Fourth Amendment claim against an agent for the Mississippi Bureau of Narcotics. Counsel for defendant has been preparing and filed a motion for summary judgment and accompanying memorandum on the afternoon of February 5, 2020. [ECF # 106, 107].

(b) On February 11, 2020 at 9:00 a.m., a hearing, on a motion for New Trial or in the Alternative, Alter or Amend Judgement in the *Matter of Callie Allyn Davis*, Jones County Chancery Court, 2014-00201-E, involving a constitutional challenge to Mississippi Code Annotated Section 91-1-15(3) [MEC # 65]. Undersigned counsel today entered his appearance in this action [MEC # 66] due to prior counsel of record having recently left the Office of the Attorney General and thus requiring undersigned counsel to prepare for this matter in the interim prior to the hearing.

6. The matters in this case involve complex issues of subject matter jurisdiction and abstention requiring considerable attention to properly prepare Defendant's reply memorandum.

7. For the reasons set forth, Defendant requests that time within which he is required to file a reply memorandum in support of his motion to dismiss in this case be extended to February 14, 2020. This motion is not filed for the sake of delay, but for good cause so that the Court may have complete and thorough briefing regarding the issues raised by Plaintiffs in their opposition to the motion to dismiss. Counsel for the Plaintiffs does not oppose this motion.

WHEREFORE, PREMISES CONSIDERED, Defendant Doug Evans, in his official capacity as the district attorney of the Fifth Circuit Court District of Mississippi, requests that this Court extend his deadline for filing his reply memorandum in support of his motion to dismiss to and including February 14, 2020.

This the 5th day of February, 2020.

Respectfully submitted,

DOUG EVANS, in his official capacity as the District Attorney for the Fifth Circuit Court District

BY: LYNN FITCH, ATTORNEY GENERAL FOR THE STATE OF MISSISSIPPI

BY: /s/ *Douglas T. Miracle*
DOUGLAS T. MIRACLE, MSB # 9648
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CERTIFICATE OF SERVICE

I, Douglas T. Miracle, Special Assistant Attorney General for the State of Mississippi, do hereby certify that on this date I electronically filed the foregoing document with the Clerk of this Court using the ECF system which transmitted a copy to all counsel of record.

This the 5th day of February, 2020.

/s/ *Douglas T. Miracle*
Douglas T. Miracle